

HOUSE No. 1523

By Mrs. Paulsen of Belmont, petition of Anne M. Paulsen and John Hayes for legislation to establish a limitation on bodily injury liability insurance damages. Financial Services.

The Commonwealth of Massachusetts

In the Year Two Thousand and Five.

AN ACT TO DISCOURAGE UNINSURED MOTORISTS BY LIMITING THEIR BODILY INJURY LIABILITY COMPENSATION.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Purpose of this act.

2 The purpose of this act is to limit the damages recoverable by
3 an uninsured motorist to actual economic losses only, in an effort
4 to provide greater inducement for motorists to meet the statutory
5 requirements for compulsory insurance coverage.

6 It is estimated that between 10 and 12 percent of Massachusetts
7 motorists operate without obtaining such insurance coverage, with
8 the percentage approaching 30 percent in the higher-rated urban
9 territories such as Boston. These uninsured motorists contribute to
10 the costs of the insurance system without accepting their fair share
11 of its costs, and at the expense of law-abiding motorists.

12 For example, in the event of an accident between an insured
13 motorist and an uninsured motorist for which the uninsured
14 motorist is found to be at fault, the bodily injury costs of the
15 insured motorist are borne by the insured motorist's company
16 through the insured motorist's Uninsured Motorist Coverage. In
17 the event of such an accident in which the insured motorist is
18 found to be at fault, the bodily injury costs of the uninsured
19 motorist are borne by the insured motorist's company through the
20 insured motorist's liability coverage. In either circumstance, the
21 insured motorist's company bears the cost of the accident regard-
22 less of the determination of fault. Thus the actions of uninsured
23 motorists contribute to higher costs for insured motorists.

24 This bill seeks therefore to at least partially redress this situa-
25 tion by prohibiting the uninsured motorist from collecting for any
26 more than his/her actual damages, in order to encourage uninsured
27 motorists to meet the requirements and responsibilities of driving.
28 However, it is understood that a major reason for the lack of com-
29 pliance with the requirements for compulsory insurance is the
30 high cost of such insurance, especially for motorists in high-rated
31 territories. A just society has every right to ask that its citizens
32 abide by certain requirements in order to promote the public good;
33 a truly just society will also seek to provide means for its citizens
34 to meet those requirements. Consequently, the provisions of this
35 act are to be effective only if measures are taken to significantly
36 reduce the cost of such motor vehicle insurance, especially in the
37 high-rated territories.

1 SECTION 2. Section 6D of Chapter 231 of the General Laws,
2 as appearing in the 1998 Official Edition, is hereby amended by
3 adding at the end of the current section the following sentences:—

4 In any action of tort brought as a result of bodily injury, sick-
5 ness or disease, arising out of the ownership, operation, mainte-
6 nance or use of a motor vehicle within this commonwealth by the
7 defendant, any plaintiff who is under obligation to meet the
8 requirements of sections thirty-four A and thirty-four M of
9 chapter ninety and who, at the time of the incident giving rise to
10 such injury, sickness or disease, was not satisfying those require-
11 ments, may recover damages only for the reasonable and neces-
12 sary expenses incurred in treating such injury, sickness or disease
13 for necessary medical, surgical, x-ray and dental services,
14 including prosthetic devices and necessary ambulance, hospital,
15 professional nursing and funeral expenses, and may not recover
16 damages for pain and suffering, including mental suffering associ-
17 ated with such injury, sickness or disease. Reasonable attorney
18 fees are to be determined by a court of appropriate jurisdiction,
19 not to exceed fifty (50) percent of the amount of the recovered
20 damages.

1 SECTION 3. This act shall take effect six (6) months from the
2 date of its enactment, or on January first of the year two thousand
3 and six, whichever date is later, but only if measures are taken,

4 such as the passage of strong choice/no-fault legislation, that in
5 the judgment of the Commissioner of Insurance have, or will have
6 by the effective date of this act, the effect of reducing the costs of
7 the minimum compulsory bodily injury insurance in the high-
8 rated territories by a minimum of thirty (30) percent.